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FM AMEMBASSY TRIPOLI
TO SECSTATE WASHDC 6965
INFO AMEMBASSY BENGHAZI

C O N F I D E N T I A L TRIPOLI 2360

LIMDIS

SUBJ: LARG ATTITUDE TOWARD ARBITRATION

1. IN CONNECTION WITH POSSIBILITY THAT CURRENT DISPUTES BETWEEN LARG AND OIL COMPANIES COULD RESULT IN COMPANIES INVOLVING ARBITRATION PROVISIONS OF PETROLEUM LAW AND CONCESSION AGREEMENTS, DEPT SHOULD NOTE THAT ARBITRATION IS LIKELY TO YIELD ONLY PSYCHIC SATISFACTION. RCC DECREE ISSUED JULY 14, 1970 ABROGATES ARBITRATION PROVISIONS OF ALL CONTRACTS WITH GOVERNMENT AND ITS AGENCIES. DECREE ESTABLISHES RESORT TO LIBYAN COURTS AS ONLY PERMISSIBLE AVENUE FOR REDRESS IN DISPUTES WITH LARG ARISING FROM CONTRACTS.

2. OIL COMPANIES INTERPRET DECREE AS APPLYING TO ADMINISTRATIVE CONTRACTS ONLY AND NOT RPT NOT TO CONCESSION AGREMENTS. COMPANIES INTERPRETATION SUPPORTED BY PETROLEUM U/S QIBLAWI'S RECENT REMARKS TO EMBOFF ABOUT FUTURE PROBLEM AREAS BETWEEN COMPANIES AND GOVERNMENT IN WHICH HE SPECIFICALLY IDENTIFIED ELIMINATING (THROUGH NEGOTIATION") PROVISION FOR INTERNATIONAL ARBITRATION FROM CONCESSION AGREEMENTS AS AMONG MINISTRY'S MEDIUM-TERM OBJECTIVES. (QIBLAWI'S REMARKS WERE IMPORTANT ELEMENT IN EMBASSY'S ASSESSMENT OF LARG'S OIL POLICY OBJECTIVES REPORTED TRIPOLI 2322.)

3. COMMENT: ARBITRATION HAS RARELY BEEN USEFUL AS MEANS FOR RESOLVING DISPUTES BETWEEN MIDDLE EAST GOVERNMENTS AND OIL COMPANIES. ARAMCO ARBITRATION WITH SAG IN 1950'S IS ONLY SUCCESSFUL EXAMPLE.

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WE CAN RECALL. I APPARENT EXCEPTION TO LARG'S POSITION, AS REFLECTED IN DECREE (TEXT BEING POUCHED TO DEPT) AND IN QIBLAWI'S REMARKS, IS PROVISION FOR RECOURSE TO ARBITRATION, IN EVENT OF TECHNICAL DISPUTE OVER PRODUCTION LEVEL, REPORTEDLY INCLUDED IN OKY PRICE-PRODUCTION AGREEMENT (TRIPOLI 2230). WE HAVE NOT SEEN OKY AGREEMENT, BUT IS IS LIKELY THAT NEITHER PARTY EXPECTS ISSUE TO REQUIRE ARBITRATION (CERTAINLY OXY DOES NOT) AND IT IS CONCEIVABLE THAT LARG IS WILLING TO RECOGNIZE ARBITRATION IN CASE OF DISCRETE TECHNICAL ISSUE. HOWEVER, WE BELIEVE THAT LARG HAS MADE POLICY DECISION NOT TO RECOGNIZE JURISDICTION OF ANY AUTHORITY OTHER THAN LIBYAN COURTS IN DISPUTES BETWEEN ITSELF AND PRIVATE PARTY. THEREFORE WE DO NOT BELIEVE ARBITRATION WOULD PROVIDE EFFECTIVE RELIEF FOR ANY COMPANY INVOKING THESE PROFISIONS IN CONCESSION AGREEMENTS.

4. EMBASSY'S VIEWS, AS WELL AS SUBSTANCE OF QIBLAWI'S REMARKS, HAVE BEEN CONVEYED TO AMERICAN OIL COMPANIES. GP-4.
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